

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

BOND J

SC No 6593 of 2017

STEPHEN JAMES PARBERY AND MICHAEL ANDREW OWEN IN THEIR CAPACITIES AS LIQUIDATORS OF QUEENSLAND NICKEL PTY LTD (IN LIQ) ACN 009 842 068	First Plaintiffs
QUEENSLAND NICKEL PTY LTD (IN LIQ) ACN 009 842 068	Second Plaintiff
JOHN RICHARD PARK, KELLY-ANNE LAVINA TRENFIELD & QUENTIN JAMES OLDE AS LIQUIDATORS OF QUEENSLAND NICKEL PTY LTD (IN LIQUIDATION) ACN 009 842 068	Third Plaintiffs
QNI METALS PTY LTD ACN 066 656 175	First Defendant
QNI RESOURCES PTY LTD ACN 054 117 921	Second Defendant
QUEENSLAND NICKEL SALES PTY LTD ACN 009 872 566	Third Defendant
CLIVE FREDERICK PALMER	Fourth Defendant
CLIVE THEODORE MENSINK	Fifth Defendant
IAN MAURICE FERGUSON	Sixth Defendant
MINERALOGY PTY LTD ACN 010 582 680	Seventh Defendant
PALMER LEISURE AUSTRALIA PTY LTD ACN 152 386 617	Eighth Defendant
PALMER LEISURE COOLUM PTY LTD ACN 146 828 122	Ninth Defendant

**FAIRWAY COAL PTY LTD
ACN 127 220 642**

Tenth Defendant

**CART PROVIDER PTY LTD
ACN 119 455 837**

Eleventh Defendant

**COEUR DE LION INVESTMENTS PTY LTD
ACN 006 334 872**

Twelfth Defendant

**COEUR DE LION HOLDINGS PTY LTD
ACN 003 209 934**

Thirteenth Defendant

**CLOSERIDGE PTY LTD
ACN 010 560 157**

**Fourteenth
Defendant**

**WARATAH COAL PTY LTD
ACN 114 165 669**

Fifteenth Defendant

**CHINA FIRST PTY LTD
ACN 135 588 411**

Sixteenth Defendant

**COLD MOUNTAIN STUD PTY LTD
ACN 119 455 248**

**Seventeenth
Defendant**

EVGENIA BEDNOVA

Eighteenth Defendant

ALEXANDAR GUEORGUIEV SOKOLOV

Nineteenth Defendant

ZHENGHONG ZHANG

Twentieth Defendant

SCI LE COEUR DE L'OCEAN

**Twenty-first
Defendant**

DOMENIC MARTINO

**Twenty-second
Defendant**

MARCUS WILLIAM AYRES

**First Defendant
added by
counterclaim**

STEFAN DOPKING

**Second Defendant
added by
counterclaim**

BRISBANE

FRIDAY, 27 JULY 2018

JUDGMENT

BOND J: In April of this year I made directions concerning disclosure which contemplated these steps:

1. The plaintiffs would put forward a detailed proposal on 25 May.
2. The defendants would respond in detail on 22 June.
3. The parties would meet on 29 June to discuss the proposals.
4. On 6 July the parties would notify the Court of the terms of the proposed consent order or file an application to resolve the disputed aspects of the proposal that had been put forward.

The plaintiffs complied with the direction and put forward a detailed proposal. Only desultory response was provided by the defendants.

Essentially, they were taking the view, as expressed in correspondence, that it was premature to deal with disclosure until pleadings had closed and until a recusal application, which had been foreshadowed, was brought and disposed of. It is plain that it did not lie in the mouths of the defendants to take that stance. An order had been made. It had been in place for months. The appropriate response, if the defendants wanted variation, was to approach the court and obtain that variation.

The plaintiffs brought the application for an order, in effect, confirming and making applicable their proposal. There not having been any compliance with orders it was, in my judgment, appropriate for them to treat the entirety of their proposal as ultimately disputed and to seek the order they seek.

In one sense there is much to be said for the proposal from senior counsel for the plaintiffs that I should simply make the order that they seek with a costs order against the defendants and if the defendants ultimately do bring a properly informed mind to bear on the subject matter for disclosure and find that they ought to make some change or that some change is warranted, they can bring an application for variation.

For their part, one of the defendants, Mr Palmer, whose position in relation to all the corporate defendants has been canvassed by me in previous judgments, submits, correctly, that he is – albeit well-resourced – a litigant in person with no legal training. I have, in a previous judgment, described the impact of that consideration on the way in which I ought respond to that position and I take the same view as there expressed.

He says that he had a number of other things on his plate concerning this litigation, namely, the appeal concerning the freezing order and taking steps to take advice and to make decisions consequent upon obtaining advice in relation to a recusal application. He submits, from the bar table, that this is the first occasion where he personally has been involved in addressing the steps that must be taken in disclosure in a way such as my orders have required. It does not appear that those reasons were the reasons that were put forward by him in responding to the plaintiffs' entreaties. He seeks an adjournment so that he may direct a properly informed mind to the considerations which are addressed by the plaintiffs' application. The other defendants join with him on that application. It transpires that I can hear that application on Friday morning, 3 August 2018.

The choice then is between making an order now and putting the defendants in a position to bring an application for variation or simply staying my hand on the

question of what order should be made in disclosure until 3 August which is only a week hence. I think the latter course is appropriate. However, the plaintiffs should be held harmless so far as the costs are concerned.

- 5 I will adjourn the plaintiffs' application until 3 August 2018 at 10 am before me. The defendants must pay the plaintiffs' costs of the adjournment. Otherwise the question of the costs of the plaintiffs' application are reserved to be dealt with on 3 August 2018. My reasoning for preferring adjournment is to ensure that in this complex litigation I actually receive assistance from the defendants as to the
- 10 appropriate steps to be taken in relation to disclosure. Those are the orders I make on the disclosure application.